

**From:** Gregory R. Warnes  
**To:** Microsoft ATR  
**Date:** 1/23/02 11:24am  
**Subject:** Proposed Microsoft Settlement Unacceptable

The proposed settlement between the Department of Justice and Microsoft does not adequately address the anti-competitive behavior outlined in the findings of fact. In particular, it does not effectively remove barriers to competing operating systems and software products, nor does it deny Microsoft the benefits of its monopolistic activity.

I believe that several fundamental changes must be made to the proposed settlement before it would be effective. Below I have attempted to capture a minimum set of behavioral requirements that would prohibit offending anti-competitive behavior, remove barriers to entry, and encourage competition in the operating system, middleware, and applications software markets.

<start>

#### Definitions:

A Dominant Software Product is any Microsoft software product with 25% or more market share.

An Applications Programming Interface (API) shall be the function names, addresses, parameter lists, storage, communications formats, timings and all other details necessary for one software component to interact with another.

#### Settlement or Ruling Conditions

##### 1. API's

#### Requirement:

All API's used to communicate between or with any Microsoft operating system, middleware product, or Dominant Software Product must be fully and completely disclosed without restrictions on use 6 months prior to the final beta release of the product. If a product becomes a Dominant Software Product, said documentation must be provided within 6 months of gaining 25% or more market share.

#### Remedy:

Any product with APIs that are not documented in this way shall be prohibited from (further) general distribution and from sale.

##### 2. File Formats

#### Requirement:

All file formats for Microsoft Dominant Software Products must be fully and completely disclosed without restrictions on use 6 months prior to the final beta release of the product. If a product becomes a Dominant Software Product, said documentation must be provided within 6 months of gaining 25% or

more market share.

Remedy:

Any product with APIs that are not documented in this way shall be prohibited from (further) general distribution and from sale.

### #3: Patents

Requirements:

Any and all patents (regardless of filing status) required to use, interact with, emulate, or implement a competing operating system, middleware product, or Dominant Software Product must be fully disclosed and documented by providing the specific services, APIs, file formats, or features effected 6 months \_prior\_ to the final beta release of the product.

Remedy:

A perpetual royalty free license to any requesting organization shall be granted for any and all patents that are not documented in this way.

### #4: Licensing Fees

Requirement:

A uniform license pricing scheme for operating systems, middleware, and Dominant Software Products, based solely on the number of licenses and sales location (country, state, etc) should be applied to all purchasers, whether OEM, corporate, or individual. Discounting schemes based on customer behavior, including but not limited to bundling of other Microsoft products and supporting non-microsoft products, are explicitly forbidden. Further, the exact licensing terms shall be made publicly available at least 6 weeks prior to the date when they may be applied and once applied must remain fixed for a term of not less than 6 weeks.

Remedy:

All sales of software products without a published license pricing scheme meeting these requirements shall be prohibited from general distribution and from sale.

<end>

Gregory R. Warnes, Ph.D.  
<greg@warnes.net>

--

The views expressed in this email are strictly my own and are independent of those of my employer.

Visit <http://freeservers.com> to get a FREE Web site with a personalized domain and FREE Web-based e-mail.